



# State Administration, Public Retirement, and Veterans' Affairs Interim Committee

PO BOX 201706  
Helena, MT 59620-1706  
(406) 444-3064  
FAX (406) 444-3036

## 56th Montana Legislature

### SENATE MEMBERS

SUE BARTLETT, VICE-CHAIR  
E.P. "PETE" EKEGREN  
DON HARGROVE  
GLENN A. ROUSH

### HOUSE MEMBERS

MATT BRAINARD, CHAIRMAN  
EDITH J. CLARK  
TOM DELL  
CAROL WILLIAMS

### COMMITTEE STAFF

SHERI HEFFELFINGER  
RESEARCH ANALYST  
JOHN MacMASTER, ATTORNEY  
DAVID NISS, ATTORNEY  
JOANN JONES, SECRETARY

## MINUTES

Disability and Health Care Subcommittee  
November 8, 1999  
Montana Association of Counties  
Helena, Montana

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of documents.**

### SUBCOMMITTEE MEMBERS PRESENT

Sen. E.P. "Pete" Ekegren, Chairman  
Sen. Sue Bartlett

Rep. Matt Brainard  
Rep. Tom Dell

### STAFF PRESENT

David Bohyer, Director, Office of Policy Research & Analysis, Legislative  
Services Division  
Jo Ann Jones, Secretary

### CALL TO ORDER AND ROLL CALL

Sen. Ekegren called the meeting to order at 8:20 a.m. Roll call was noted.

### DISABILITY BENEFITS

**Exhibit #1: Public Employees' Retirement Board Disability Benefits by System,  
November 8, 1999**

Michael O'Connor, administrator, Public Employees' Retirement Division (PERD), presented Exhibit #1.

Mr. O'Connor said the standards to determine disability vary among the various retirement systems. The member must apply for disability while an active member or within four months of terminating active membership, and is required to prove continual disability from the time of termination.

Mr. O'Connor said the Public Employees' Retirement Board (PERB) is the determining body of whether a disability exists. If disability is determined, the case is put on annual review. Medical documentation is requested. He said a disability examiner is on staff to perform reviews and the PERB has a medical consultant for case review. At normal retirement age, the disability benefit is converted to a service retirement but the amount of the benefit is not recalculated.

Mr. O'Connor said that there are two types of disability: non-service and service-related disabilities. Generally, the service-related benefit is a better benefit. He said that there are two types of payment options: single life or joint-life annuity.

Rep. Dell asked for conjectures on why there is sometimes such a large difference between total number of applications from year to year. Mr. O'Connor said there is no real answer to that question, but said that the yearly average is usually around 50 applications.

Rep. Dell asked if the disability benefit is offset by Social Security benefits. Mr. O'Connor said there was no offset.

Rep. Dell asked if rehabilitation assistance is provided. Mr. O'Connor said the PERB works with the employer to make accommodations, or to make sure that accommodation was attempted.

Sen. Bartlett asked for an explanation on the income limit. Mr. O'Connor said the PERB reviews medical documentation and income annually to ensure the determination of disability is correct, and to determine whether the member has been rehabilitated in the meantime. Sen. Bartlett asked if a member whose disability benefit has been canceled is still eligible for regular retirement benefits. Mr. O'Connor said that was correct. Sen. Bartlett asked if other states provide disability benefits through the retirement system, or if it was provided through health or life insurance. Mr. O'Connor said most states with a defined benefit (DB) retirement system provide disability coverage through the system.

Rep. Brainard asked if information was available to indicate the actual cost to the retirement system. Mr. O'Connor said that, according to the actuarial report, .43 percent of the total contributions is attributable to disability. Rep. Brainard asked for an overall cost to the system. Mr. O'Connor said he provide that information.

Sen. Ekegren asked why there are differences in disability coverage between the retirement plans. Mr. O'Connor said that disability coverage is an important issue to employees in the public safety sector, such as firefighters or police officers.

Sen. Ekegren asked about legislative changes to the plan. Mr. O'Connor said that, according to Internal Revenue Service rules, a change in benefit must be equal to or greater than the original benefit.

Sen. Bartlett requested a breakdown of the age of members at the onset of disability.

Tim Shanks, Montana Police Protective Association, asked for the ratio of applicants to accepted disability. Mr. O'Connor said it was approximately 25 per cent.

### **PANEL DISCUSSION**

Panel participants:

Michael O'Connor, administrator, PERD

David Senn, executive director, Teachers Retirement System

Glen Leavitt, Benefits Director, Commissioner of Higher Education

Joyce Brown, Chief, Employee Benefits Bureau

John McEwen, administrator, State Personnel Division

Mr. O'Connor said William Mercer is the consultant retained to implement the defined contribution (DC) plan and distributed **Exhibit #2: Disability & Survivor Issues Defined Benefit to Defined Contribution Conversions**, that outlines the options for disability benefits in a DC plan.

Rep. Dell asked if the premium the employee pays would be tax deductible. Mr. O'Connor said he was not sure and that it would have to be determined by the IRS. He commented that money entering the system is pre-tax money. Rep. Dell said the issue would be if the individual or the employer be responsible for paying tax if an employee paid the premium and then became disabled.

Rep. Brainard asked if disability insurance can be separated from the retirement system and isolated as a separate benefit. Mr. O'Connor said that in other states where a DC plan is being implemented, it's an integral part of the retirement package.

Mr. O'Connor said that it appears the most cost effective way of providing benefits is by pooling resources because if the benefit is offered as an individual option, the individual may not opt for it because of the cost.

Mr. Senn said the Teachers' Retirement Board (TRB) will meet November 19 and will discuss disability coverage at that time, and distributed **Exhibit #3: Montana Teachers' Retirement System Disabilities Retirement Benefits**. He said that because Montana salaries for teachers are low compared to the national average, there will be difficulty finding enough teachers in the future. He said that some states pay bonuses at the time of hire.

Rep. Dell asked what the average time period is between application and determination of disability. Mr. Senn said it averaged three to four months because the TRB meets quarterly. Delays are usually while medical documentation is obtained and reviewed by an attending physician. Many applications are received for employment termination at the end of the current school year, so the time period in which the TRB can act is longer.

Sen. Ekegren asked what types of disabilities are most common. Mr. Senn said that stress-related illnesses and cancers are the most common. Mr. O'Connor commented that the PERS has seen an increase in stress-related illnesses, too.

Mr. Leavitt said the University system has provided long-term disability insurance for at least 20 years, before the DC plan was implemented.

Rep. Dell requested Mr. Leavitt provide the PERD with details of the University system disability plan for consideration. He asked if the employee pays for the option through payroll deduction. Mr. Leavitt replied that the total cost of benefits for each employee is compared to the state's contribution and the employee pays any cost over-runs.

Sen. Bartlett asked what the experience has been with the carrier's willingness to pay, if the disability is legitimate. Mr. Leavitt said the University system has only five

months experience with the current carrier, but experience with the previous carrier was good, although there were a few problems. He said the current contract was carefully negotiated because of the complications created by employees on sabbatical.

Sen. Bartlett asked if the benefit was a lifetime payment. Mr. Leavitt said it stops at age 65 but if disability occurs after the age of 65, there is one year of disability benefits available to the employee.

Mr. Senn asked if termination of employment was required. Mr. Leavitt said the employee must be disabled for six months but can be on a leave-of-absence status.

Rep. Brainard asked how the disability coverage worked with an employee who is on the Optional Retirement Plan (ORP). Mr. Leavitt said most employees allow the ORP account to grow because the disability benefits terminate at age 65.

Kelly Jenkins, PERB counsel, asked if ORP people have a chance of collecting greater benefits than those in TRS, therefore creating a situation in which TRS is subsidizing the ORP. Mr. Leavitt said the information could be interpreted that way. Rep. Brainard said that under the TRS DB plan, the benefits won't be diminished by drawing early on disability. By early withdrawal of assets from the ORP, the fund is being diminished, so there is no subsidy. Mr. Senn said he wasn't sure there was a subsidy, either.

Sen. Ekegren asked for scenarios to be created and submitted by panel participants.

Mr. McEwen asked what happens if the insurance company and the retirement board disagree about whether a disability exists. Mr. Leavitt said that could happen, but he didn't know of a specific case in which it did. Mr. O'Connor said some PERS

members have applied for and received a disability through Social Security, but didn't qualify through PERS because the standards are different.

Mr. McEwen said the first issue is why the employer offers disability insurance since the first consideration is the ability to attract and retain employees. He said he doubts that young people even think about it. He said 21 states offer some type of long-term disability coverage, and 19 states offer short-term disability coverage. Montana offers some short-term disability coverage through the use of annual and sick leave. He said that the state recently added long-term care insurance to the benefit package.

Ms. Brown said there is probably a gap between short-term and long-term coverage for those who are not yet vested in the retirement system. She said there are benefits to having universal coverage because it is less expensive than elective coverage.

Mr. McEwen said disability coverage should be offered on the amount of income rather than length of service, if the intention is to protect the employee's income. Rep. Brainard said Mr. McEwen's comment spoke directly to his question as to whether disability coverage should be a separate benefit.

Rep. Dell asked Mr. O'Connor to respond to the issue of universal versus elective coverage. Mr. O'Connor said he agreed with Ms. Brown's assessment.

Sen. Bartlett asked why life insurance coverage is required. Ms. Brown said the original intention was to cover costs of funeral expenses. Sen. Bartlett asked if the retirement system has a death benefit. Mr. O'Connor said that it did, a month's salary for each year of service, up to six months.

Sen. Bartlett said universal coverage is appealing because of the cost, but that she doesn't believe other governments can be made to participate in a program. She said that it's easy to think of PERS as being state employees only, but PERS also contains extremely small units of local government. Mr. O'Connor said there are 200 employers that have 10 or fewer employees.

Rep. Brainard asked Mr. McEwen if purchase levels instead of percentage of salaries (similar to life insurance) had been considered. Mr. McEwen said it would have to be bid both ways to determine the cost of the premium. He said that it could end up with the janitors subsidizing the professors. Mr. Leavitt said it would also depend on whether it was a mandatory universal program or a voluntary program, and that a mandatory program would almost dictate the same premium for everyone. Mr. Bohyer commented that any subsidy might depend on who is receiving the benefits.

Sen. Bartlett asked if those already on disability benefits when the insurance companies changed remained with the old company, and if that situation created problems for the University in regard to leverage to make the carrier treat the employee appropriately. Mr. Leavitt said there is very little leverage outside of moral persuasion, but the University still has a good working relationship with the carrier.

### **PUBLIC COMMENTS**

Tom Bilodeau, Montana Education Association (MEA), said one of the most serious concerns he had about the DC plan was the elimination of disability coverage. He said that it is very uncommon for any long-term disability coverage to be contained within teaching contracts, so PERS and TRS have to be relied on for that benefit. He said that he would assume that less than half of all teachers have private disability coverage because the cost is prohibitive.



Rep. Dell said that education plays a critical role for members who elect the DC plan so that they are aware that disability coverage is not provided.

Mr. Shanks said that young police officers just entering the system are considering retirement and are probably single. He said police officers have one source of disability coverage through the retirement system. Education is important, but there is a point at which the member must take responsibility to listen.

Mr. Jenkins asked what the term of the contract was between the University system and the disability coverage carrier. Mr. Leavitt said there is a 3-year rate guarantee and rates can be re-negotiated at that time.

#### **COMMITTEE DISCUSSION OF OPTIONS AND ISSUES**

Rep. Brainard said one controversy regarding disability concerned the DC system and that the Subcommittee needs to address the availability of disability coverage as a separate benefit. He said that he would also like to see what could be done on a flat rate basis.

Rep. Dell said the pooling element is critical to get as many programs as possible on track and to keep the costs as low as possible.

Mr. McEwen said that it would be helpful to find out what is available for workers compensation, social security, and other programs. Rep. Brainard concurred with Mr. McEwen and said that he has heard there is a serious lack of disability coverage, but have heard of very few actual cases.

Mr. O'Connor encouraged the Subcommittee to give close examination to Exhibit #2.

Sen. Bartlett said health insurance costs for retirees is also a subcommittee task and should not be forgotten

### **ADJOURNMENT**

Rep. Brainard moved to adjourn; Rep. seconded. The meeting adjourned at 11:10 a.m.

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